
DELEGATION OF AUTHORITY – TOXIC SUBSTANCES CONTROL ACT

12-5. Management of Polychlorinated Biphenyls (PCBs)

1. PURPOSE: This Order redelegates certain authorities conferred on the regional administrator by Delegation 12-5 of the EPA Delegation Manual.
2. AUTHORITY: Pursuant to regulations promulgated under Section 6(e) of the Toxic Substances Control Act (TSCA) and codified at 40 CFR Part 750 and Part 761, to:
 - a. grant, deny, and revoke TSCA PCB Coordinated Approvals;
 - b. grant an application for a variance from the performance criteria applicable to a boiler that burns used oil;
 - c. approve or deny applications for risk-based sampling, cleanup, storage, decontamination, or disposal of PCBs;
 - d. require, allow, restrict, or prohibit PCB management activities based on a finding that the activity does or does not present an unreasonable risk of injury to health or the environment;
 - e. approve or deny permit applications to operate PCB storage or disposal facilities;
 - f. approve or disapprove a self-implementing cleanup of, or changes to an approved cleanup of, PCB remediation waste;
 - g. approve requests to collect a surface sample from a natural gas pipe segment or pipeline section where the surface area is $< 100 \text{ cm}^2$;
 - h. waive notification of commencement of research and development for disposal activity or of self-implementing cleanup of PCB remediation waste;
 - i. request or require information or data on the nature, location, and extent of PCB contamination;
 - j. approve changes in ownership or operational control of a commercial storage facility;

k. approve, approve modifications to, or release owners or operators from closure plans for commercial storage facilities; and

l. extend the limits on volume, concentration, or duration for PCB disposal activities and to extend the time limits for complying with PCB regulations, where the regulation specifically authorizes such extensions.

3. TO WHOM REDELEGATED:

The director of the Division of Enforcement and Compliance Assistance (DECA) and the director of the Clean Air and Sustainability Division (CASD) are redelegated the authorities specified in 2.a. through 2.l..

4. LIMITATIONS:

a. These authorities may be exercised only with respect to facilities or sites which will operate or at which PCB management activities will take place exclusively in Region 2.

b. Redelegatees must obtain the concurrence of the regional counsel or his/her designee before exercising the authorities in 2.a., 2.c. and 2.j.

c. Redelegatees must obtain the concurrence of the regional counsel or his/her designee prior to exercising the authority in 2.d. with respect to PCB remediation waste at facilities or sites where such waste was placed in a facility or site or otherwise released into the environment prior to April 18, 1978, except where such waste is part of a self-implementing cleanup approved pursuant to Section 2. f., herein.

d. Redelegatees must consult with the regional counsel or his/her designee prior to exercising the authority in 2.d. with respect to imposing additional requirements for an incinerator approval intended to ensure that its operation does not present an unreasonable risk.

e. Redelegatees must consult with the regional counsel or his/her designee prior to exercising the authority in 2.d. with respect to spill cleanups to impose more stringent requirements than those that otherwise would apply or to authorize less stringent or alternative requirements, except for requests to authorize alternative sampling or decontamination procedures incorporated in a self-implementing cleanup of PCB remediation waste subject to EPA approval pursuant to Section 2.f., herein.

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f. Redelegates must obtain the concurrence of the regional counsel or his/her designee prior to exercising the authority in 2. e., except as follows: (1) renewals of research and development approvals that do not deviate substantially from the preceding approval; (2) modification or renewal of storage or disposal approvals that neither (a) add or waive requirements, nor (b) increase capacity (by adding a new unit not previously authorized or altering design specifications for existing units).

g. Redelegates must consult with the regional counsel or his/her designee prior to exercising the authority in 2.k.

5. FURTHER REDELEGATION:

a. The authorities specified in 2.a., b., c., d., and e. may not be further redelegated.

b. The authorities specified in 2.f., g., h., i., j., k., and l. are hereby further redelegated to the chief of DECA's Pesticides and Toxic Substances Branch and to the chief of CASD's Hazardous Waste Programs Branch. These authorities may not be redelegated below the branch chief level.


c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.

6. ADDITIONAL REFERENCES:

a. For the purpose of this delegation, all terms, such as "disposal," have the meaning given to them under TSCA. Specifically, any definitions in 40 CFR § 761.3 apply.

b. Joint Memorandum entitled Administration of PCB Program, March 6, 2008 from the assistant administrators of the Office of Solid Waste and Emergency Response and the Office of Prevention, Pesticides and Toxic Substances.

7. SUPERSESSION: This redelegation supersedes Regional Order R-1200 (redelegation of 12-5) dated December 14, 2016.



Peter D. Lopez
Regional Administrator

